

1 will be rendered moot by attendance at the Conference on June 5, 2008. For this reason, if not taken
2 off calendar prior to that time, the Petition will have been rendered moot prior to the hearing of this
3 Petition on June 17, 2008..

4
5 Date: May 22, 2008

6 s/ STUART D. HIRSCH, ESQ.
7 Attorney for Plaintiff, PALOMAR
GRADING AND PAVING, INC.

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12 **CERTIFICATE OF SERVICE**

13 I HEREBY CERTIFY and declare under penalty of perjury that I am over the age of 18
14 years and am not a party to this action. My business address is 2150 N Centre City Parkway,
15 Escondido, CA 92026. A copy of the foregoing RESPONSE IN OPPOSITION (qualified) OF
16 PALOMAR GRADING AND PAVING, INC. REGARDING PETITION TO COMPEL
17 MEDIATION; DECLARATION OF STUART D. HIRSCH was served on this date by electronically
18 submitting a copy of the same on the District Court's website, CM/ECF system

19
20
21 May 22, 2008


Monica Marty
Legal Assistant to Stuart Hirsch

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STUART D. HIRSCH, ESQ. (SB #142641)
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2150 N. Centre City Pkwy.
Escondido, CA 92026
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Attorney for Plaintiff,
PALOMAR GRADING AND PAVING, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PALOMAR GRADING AND PAVING, INC., a
California Corporation, and THE UNITED
STATES OF AMERICA For The Use And
Benefit of PALOMAR GRADING AND
PAVING, INC.

Plaintiff,

v .

WESTERN INSURANCE COMPANY, and
CORNERSTONE BUILDING GROUP

Defendants.

Case No.: 08 CV 521 JAH WMc

**DECLARATION OF STUART D.
HIRSCH IN SUPPORT OF RESPONSE
IN OPPOSITION (qualified) OF
PALOMAR GRADING AND PAVING,
INC. REGARDING PETITION TO
COMPEL MEDIATION**

DATE: JUNE 9, 2008
TIME: 2:30 P.M.
COURTROOM: 11
JUDGE: HON. JOHN A. HOUSTON

AND RELATED CROSS ACTION

I, Stuart D. Hirsch, declare as follows:

1) I am a lawyer who is licensed and admitted to practice law before each of the State and Federal Courts that are located within the state of California. I am the lawyer representing PALOMAR GRADING AND PAVING, INC., in this matter. If called upon to testify in regard to the truth of the matters asserted within this Declaration, I could and would competently testify to those matters.

2) Although there is a typographical error in the Notice referring to "Arbitration," Joseph Casas has specifically agreed that the Petition only seeks Mediation. Attached hereto as exhibit "A," and incorporated herein by this reference, is a true and correct photocopy of an e-mail exchange that

1 I had with Joseph Casas on May 14, 2008. As can be seen, in response to my question concerning
2 the typographical error in the Notice, Mr. Casas specifically stated: "we seek mediation, not
3 arbitration."


4 I declare under penalty of perjury, under the laws of the United States of America, that the
5 foregoing is true and correct. This declaration was executed on this 22nd day of May, 2008, in
6 Escondido, California.

7
8 s/ STUART D. HIRSCH, ESQ.
9 Attorney for Plaintiff, PALOMAR
10 GRADING AND PAVING, INC.
11

12 **CERTIFICATE OF SERVICE**

13 I HEREBY CERTIFY and declare under penalty of perjury that I am over the age of 18
14 years and am not a party to this action. My business address is 2150 N Centre City Parkway,
15 Escondido, CA 92026. A copy of the foregoing DECLARATION OF STUART D. HIRSCH IN
16 SUPPORT OF RESPONSE IN OPPOSITION (qualified) OF PALOMAR GRADING AND
17 PAVING, INC. REGARDING PETITION TO COMPEL MEDIATION was served on this date by
18 electronically submitting a copy of the same on the District Court's website, CM/ECF system
19

20
21 May 22, 2008


22 Monica Marty
23 Legal Assistant to Stuart Hirsch

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Exhibit “A”

Stuart Hirsch

From: Joseph N. Casas [joseph@casaslaw.com]
Sent: Wednesday, May 14, 2008 10:26 PM
To: Stuart Hirsch
Cc: 'Ash Nasser'; 'Tamara Craft'
Subject: RE: Palomar v. Cornerstone

Stuart,

We seek mediation, not arbitration.

I'll get back to you on your point pertaining to ENEC on June 5.

Thanks.

From: Stuart Hirsch [mailto:shirsch@emeraldfg.com]
Sent: Wednesday, May 14, 2008 9:41 AM
To: joseph@casaslaw.com
Subject: Palomar v. Cornerstone

Hello Joseph:

I needed some clarification, and also wanted to provide you with an advance copy of the attached document, which I intend to file today. With regard to the clarification, you indicated that your motion scheduled to be heard on June 9 only sought to compel mediation. Unfortunately, on the first page of your "Amended Notice of Petition to Compel Mediation," at line 27, you have asked the court to "make an Order directing the parties to proceed to arbitration." Either you need to submit a second amended notice, or I need you to confirm, by return e-mail that I can indicate to the Court that we have agreed that you are only seeking to compel Mediation and not arbitration.

On an obviously related note, we have been ordered to attend mediation (ENEC on June 5). Wouldn't that make your motion moot?

Stuart D. Hirsch
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Direct- (760) 781-3658
Cell- (760) 807-4791

5/15/2008